

Oregon CZARA Correspondence: The Origin Story, How We Got There and Why We're Here
Draft 3/28/2013

Date	Agency/Org	Letter/ Communication	Summary
July 1995	ODEQ to NOAA, EPA	ODEQ completes their program submittal for the Coastal Nonpoint Program.	
Oct 1998	NOAA, EPA to ODEQ	Approvals, conditional approvals, and interim approval of Oregon's Coastal Nonpoint Program	NOAA and EPA grant conditional approval on Oregon's program with 40 conditions for Oregon to address. [Note: currently, three remain – additional forestry measures, onsite disposal systems (OSDS), and new development. There are interim approvals for several nonpoint programs.]
1998-2009	NOAA, EPA to ODEQ	Conditional Approvals for Oregon's Coastal Nonpoint Program	NOAA and EPA continue to grant conditional approvals for Oregon's Coastal Nonpoint Program.
10/16/03	EPA OWOW to EPA Regions	Memo re: Approving and Disapproving State Programs under the CZARA Amendments of 1990	<ul style="list-style-type: none"> • Memo indicates that 13 states have conditional approvals that have expired and who have not had full approval of coastal nonpoint programs. • Commitment to full approval • Outlines steps to disapprove CZARA program including laying out evaluation of mgmt measures and State's failure to meet program requirements.
1/6/09	From NWEA to US District Court	NWEA vs. Locke et al. Lawsuit	NWEA files lawsuit against EPA, Dept of Commerce, and NOAA re: Oregon CZARA program in U.S. District Court for conditional approval of Oregon's Coastal Nonpoint Programs.
10/29/09	ODEQ to NOAA and NWEA	ODEQ's draft approach to receive full approval of Coastal Nonpoint Program	<ul style="list-style-type: none"> • Draft approach result of meetings conversations with ODEQ and EPA. • ODEQ proposes two options to three outstanding forestry issues. Option #1 is prescriptive TMDL; Option 2 is forest rulemaking to Forest Practices Act.

			<ul style="list-style-type: none"> • ODEQ proposes to do Onsite Disposal Rules (?) • ODEQ proposes to complete guidance for New Development (?)
5/12/10	NOAA, EPA to ODEQ	Letter re: EPA's and NOAA's evaluation of ODEQ's draft approach	<ul style="list-style-type: none"> • Acknowledgment of cooperative effort among ODEQ, EPA, and NOAA. • EPA's support of ODEQ's Option #1, prescriptive TMDL to address three outstanding forestry issues • EPA's conclusion that Option #2, forest rulemaking would take a long time. • EPA's support of ODEQ's development of onsite disposal rules. • EPA's support of guidance for New Development. • Attachment of timeline and information for EPA and NOAA to approve CZARA program, developed in consultation with ODEQ.
7/2/10	Oregon DOJ	Memo re: DEQ Authority to Develop and Implement Load Allocations for Forestland Sources	<ul style="list-style-type: none"> • Explains DEQ's authority to issue a TMDL with specific load allocations and implementation measures for forestry, and that the TMDL may develop "safe harbor" BMPs to develop and enforce the source-specific LAs for landowners. • If the Board of Forestry (BOF) developed BMPs equivalent to the "safe harbor" BMPs, this could satisfy LAs.
7/21/201	ODEQ to EPA,	Letter re: ODEQ's commitments to resolve	<ul style="list-style-type: none"> • Response to May 12, 2010 letter from EPA and NOAA

0	NOAA	three Nonpoint Source Plan elements in CNPCP	<ul style="list-style-type: none"> Commitment to resolve three Nonpoint Source Plan elements in CNPCP within schedule provided or as modified by DEQ.
7/26/10	ODEQ to EPA, NOAA	Letter re: ODEQ's commitment to implement the IR-TMDL Approach Identified in the "ODEQ's Response to the EPA and NOAA's Conditions of Fully Approving Oregon's CNPCP, submitted by letter dated May 12, 2010"	<ul style="list-style-type: none"> Clarification of July 21, 2010 letter from ODEQ to EPA and NOAA re: commitments under the "Additional Management Measures for Forestry" including: <ul style="list-style-type: none"> Implementation-ready TMDLs, implementation plans, and "safe harbor" BMPs IR-TMDLs for all coastal basins with schedule developed by Sept. 30, 2010 IR-TMDL includes detailed source delineation, inc nonpoint sources Enforceable LAs and "safe harbor" BMPs for significant nonpoint sources Implementation orders to significant sources IR-TMDL for Midcoast Basin
??/ 2010	EPA, NOAA to?		<ul style="list-style-type: none"> ODEQ needs to submit schedule for coastal basin IR-TMDLs by March 31, 2011 By June 30, 2012, EPA and NOAA request ODEQ to submit Midcoast TMDLs by June 30, 2012
9/22/2010	NWEA, NOAA, EPA	Final CZARA Settlement Agreement	<ul style="list-style-type: none"> By December 31, 2012, based on Oregon's 7/2/10 letter

			<ul style="list-style-type: none"> and ODEQ's 7/26/10 commitment letter, EPA must complete an initial written assessment of the Oregon Coastal TMDL approach whether <ul style="list-style-type: none"> Implementation of Oregon Coastal TMDL approach in the Midcoast Subbasins including safe harbor BMPs, is likely to result in actions that achieve and maintain WQS Oregon's plan to develop and update TMDLs for all subbasins could satisfy the outstanding forestry condition. EPA and NOAA shall consider any comments Plaintiff may have submitted with respect to ODEQ's proposed TMDLs and BMPs. On or before November 15, 2013, NOAA and EPA shall issue a Federal Register with a proposed decision to either 1) issue full approval of OR's CNPCP; 2) make a finding that OR's program has failed to submit an approvable program; On or before May 15, 2014, NOAA and EPA shall issue either 1) full approval of OR's CNPC; or 2) make a finding that Oregon has failed to submit an approvable program and withhold CWA 319 and CZMA 206 funds.
???	ODEQ	Timeline for Midcoast TMDL	<ul style="list-style-type: none"> ODEQ asks for an extension for Midcoast TMDL to be completed by June 30, 2013.
Feb 2012	US District Court	Court decision on temperature WQS re: natural conditions	<ul style="list-style-type: none"> U.S. District Court rules that EPA's approval of Oregon's natural conditions provision of the temperature standard

			<ul style="list-style-type: none"> • was arbitrary and capricious.
April 2012	ODEQ	Midcoast TMDL Kickoff meeting	<ul style="list-style-type: none"> • ODEQ initiates Midcoast TMDL meetings for temperature, sediment, and bacteria.
Dec 2012	NOAA, EPA to ODEQ	"Christmas Letter" re: EPA's and NOAA's Initial Written Assessment as required by Settlement Agreement	<ul style="list-style-type: none"> • Letter reiterates conditions of the Settlement Agreement (see 9/22/2010) • Letter refers to negotiation commitments from ODEQ in July 21, 2010 and July 26, 2010 letters (see above) re: mid-Coast IR-TMDLs and the development of safe harbor BMPs. • Letter refers to Settlement Agreement requirements to evaluate 1) adequacy of BMPs identified in the IR-TMDL process; 2) strategy of state to address landslide prone areas and forest roads; 3) examples of safe harbor BMPs; 4) Mid-Coast IR-TMDLs; and 5) schedule for development of other coastal subbasin TMDLs. • Letter provides description analyzing the above items and is specific in its recommendations for the three additional forestry areas (<i>See ODEQ Draft Approach 10/29/09 and July 21 and 26, 2010 letters; EPA 5/10/10 letter</i>) re: <ul style="list-style-type: none"> ○ Forestry roads [Note: the details were developed after consulting with State staff in the Midcoast TMDL and mirror ODEQ's proposal to the Midcoast TMDL stakeholder workgroup.]; ○ Small, medium, and nonfish bearing streams; and

			<ul style="list-style-type: none"> ○ Landslide-prone areas. • Letter describes progress and expectations on New Development guidance (<i>See ODEQ Draft Approach 10/29/09 and July 21 and 26, 2010 letters; EPA 5/10/10 letter</i>) • Letter describes progress and expectations on Onsite Sewage Disposal System (<i>See ODEQ Draft Approach 10/29/09 and July 21 and 26, 2010 letters; EPA 5/10/10 letter</i>) • <i>Letter provides examples of what could be done to meet the three additional forestry areas, new development guidance and Onsite Sewage Disposal System that were <u>not</u> included in previous letters, but were intended to give the state <u>examples, not required mgmt actions.</u></i>
2/12/2013	ODEQ to EPA, NOAA	"Valentine's Letter" re: Inability of DEQ to submit Midcoast TMDL by June 30, 2013 and issues with OSDS Rules	<ul style="list-style-type: none"> • Letter acknowledges receipt of December 21, 2012 Christmas letter. • States that Midcoast IR-TMDL will not be able to be completed by June 30, 2013 because ODEQ needs more time to "do it properly" and because of complications with the OR temperature WQS ruling (see February 2012 US District Court ruling). • States that DEQ will not be able to implement the time of transfer inspection program by March 2013 for OSDS because of concerns from state legislators and inability to charge a reporting fee for time of transfer inspection reports because of an OR ballot measure passed in

			<ul style="list-style-type: none">• November 2012.• DEQ will be sending a follow-up letter in a few weeks laying out expectations regarding timeline for development of the Midcoast IR-TMDL and onsite time of transfer inspection rulemaking.
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